



Consultation, VA <consultation@bia.gov>

Comments/suggestions on proposed revisions to Title 25 Part 83

1 message

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To: consultation@bia.gov

Dear BIA Consultation,

My comments/suggestions on proposed revisions to Title 25 Part 83 mainly relate to the existing (current) section 83.8-"Previous Federal acknowledgment" and the proposed revisions to section 83.10-"Processing of the documented petition" ("*Expedited Favorable Criteria*").

A process that would significantly reduce time and resources would be to have petitioners (claiming previous acknowledgment) fill out a standardized/optional form. The form should contain answers to the following questions:

1. What historical Tribe is your Tribe claiming descent from?
2. What is the name of your Tribe?
3. Has the name changed since historical times? ("historical times" is defined as; treaty signing with the United States or from the beginning of U.S. jurisdiction. If the name has changed at any time, indicate the original and successor names and time periods of each change)
4. Is more than 50 percent of your current Tribal membership descended from the same historical Tribe?
5. Can the current Tribal membership prove descent from the historic Tribe? (Certificate Degree Indian Blood (CDIB) and ancestry charts are required to be submitted along with birth and death certificates proving descent)
6. Has the historic Tribe been the subject(s) of; a.) a treaty with the United States, b.) congressional legislation including executive orders or c.) exclusive land purchase negotiations initiated by the Indian Service/ Bureau of Indian Affairs.
7. Under which Indian Service/ Bureau of Indian Affairs Agency(s)/ Jurisdiction(s) was your historic Tribe? (list all applicable agencies/jurisdictions if more than one and the approximate date of any jurisdictional changes)
8. Have you and/ or your ancestors received services from agencies of the Federal government strictly on the basis of being "Indian"?
9. Do any of your Tribal members have Indian allotments, the Indian titles to which have not been extinguished?

The burden of proof will still remain with the petitioner, however, after answering all questions on the form affirmatively and providing documentation to substantiate claims, the petition should then be processed in accordance with a revised section 83.10 ("*expedited favorable finding criteria*"). Under the contemplated "83.10 (g)(3)", the "*expedited favorable criteria*" are: (i) *The petitioner has maintained since 1934 a reservation recognized by the state; or (ii) The United States has held land for the group at any point in time since 1934.*

Regarding "(i)" above, if considered to be a State recognized reservation, wouldn't the date of establishment pre-date 1934? "1934" seems to relate to Federal policies toward "Indians" under "Federal jurisdiction". Federal jurisdiction would seem to elevate the needs of Tribes having previous Federal acknowledgment, thus evaluation under "*Expedited Favorable Criteria*". Recommend adding language allowing Tribes previously acknowledged to participate under the "*Expedited Favorable Criteria*" at section 83.10. In addition to the recommendation above, the criteria contemplated at "(ii)" of proposed 83.10 (g) should remain the same.

In general, when evaluating petitions; whether for previous acknowledgment or non-previous acknowledgment, maximum flexibility should be given when evaluating continuity of government/political and social activities. Many Tribes have found it difficult to account for some "gaps" in their history due to historical events affecting Indian people such as; removal acts, unratified treaties, the allotment era (Dawes Act), the great depression, the Indian Reorganization Act (IRA), World War II, Korean War, the Termination era, Vietnam War and the self-determination era. All

of these various events have had some impact on all Tribal communities but perhaps the most catastrophic has been the Termination era because it essentially allowed BIA agencies the option of "dropping" Tribes they felt did not warrant services, in addition to the Tribes that were formally Terminated by act of Congress. Unfortunately, in some circumstances, the "termination era" actually began shortly after passage and implementation of the IRA. This type of action is what led to the apparent "lapse" of BIA services (Federal recognition).

I appreciate the opportunity to make additional comments/suggestions on proposed revisions to Title 25 Part 83. Thank you for considering my recommendations.

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